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Straub & Pokotylo 788 Shrewsbury Avenue Tinton Falls, NJ 07724			BRANDENBURG, WILLIAM A	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/721,010	<b>Applicant(s)</b> KONINGSTEIN ET AL.	
	<b>Examiner</b> WILLIAM A. BRANDENBURG	<b>Art Unit</b> 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 23-26, 28-37, 60-63 and 65-87 is/are pending in the application.
- 4a) Of the above claim(s) 81-83 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-26, 28-37, 60-63, 65-80 and 84-87 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 81-83 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/05/2009</u> .  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Response to Amendment***

1. The following is a Non-Final Office Action in response to communications received on 05/28/2009 for Request for Continued Examination (RCE). Claims 27 and 64 have been cancelled. Claims 23-24, 26, 28, 32-35, 60-61, 63, 65, 69-72 and 75-76 have been amended. Claims 77-87 have been added. Therefore, claims 23-26, 28-37, 60-63 and 65-87 are pending, however, due to the Restriction Requirement detailed below, only claims 23-26, 28-37, 60-63, 65-80 and 84-87 have been examined and addressed below.

***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/28/2009 has been entered.

***Election/Restrictions***

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Newly submitted claims 81-83, drawn to a computer-implemented method that includes accepting a plurality of ads, determining a similarity with the request, determining a score using the similarity and determining whether and how to serve an ad, classified in class 705, subclass 14.

4. Newly submitted claims 81-83 are directed towards non-elected, cancelled claims, as admitted on the record by the Applicant on page 25 of the Remarks. These claims are directed to the same subject matter that was the basis for a previous Restriction Requirement mailed on 04/08/2008 and were cancelled as part of the Applicant's Election filed on 05/09/2008. As such, these claims are restricted from the other pending claims and will not be examined in the rejection below.

***Information Disclosure Statement***

5. The information disclosure statement (IDS) submitted on 06/05/2009 was filed after the mailing date of the Final Office Action on 01/29/2009. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 23 and 60 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 23 and 60 recites the limitation "the concept target information" in line 16 of the claims. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 23-26, 60-63, 75-78 and 84-85 are rejected under 35 U.S.C. 102(a) and 102(e) as being anticipated by Paine et al. (US 2003/0055816 A1) (hereinafter Paine).**

8. As per claim 23, Paine discloses a computer-implemented method comprising:

a) accepting, with a computer system including at least one computer on a network, ad information associated with an ad ([0086], advertiser enters bidded search terms, see also [0093], spidering specified advertiser web site, see also

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[0107], [0111], advertiser specifies initial list of search terms);

b) determining, with the computer system, at least one of (1) a candidate concept having an associated value and (2) a candidate concept indicator having an associated value using the accepted ad information ([0086], string matching to find additional search terms, see also [0093-95], filtering search terms from terms used by other advertisers, collaborative filtering used to identify possible search terms to recommend to advertiser, see also [0097-101], terms are scored using a quality metric to compile list of recommendations, quality metric serves to compile related terms and eliminate poor search terms, see also [0118], ranked list of recommendations based on ratings);

c) presenting, with the computer system, the determined at least one candidate concept and candidate concept indicator to an advertiser ([0086], generated list of additional search terms to advertiser, see also [0093], filtered search terms stored in search listing database, see also [0097-101], advertiser allowed to iteratively accept and reject words until satisfied with list of recommendations, see also [0112], advertiser presented with list);

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d) determining, with the computer system, a representation of the concept targeting information for the ad using, at least, advertiser feedback to the presented at least one candidate concept and candidate concept indicator ([0086], advertiser selects search terms from provided list, see also [0097-101], advertiser allowed to iteratively accept and reject words until satisfied with list of recommendations) (The Examiner understands the representation to be the term selected by the advertiser); and

e) adjusting, with the computer system, the value associated with the at least one of (1) a candidate concept and (2) a candidate concept indicator using the accepted advertiser feedback ([0086], advertiser selects search terms from provided list, see also [0100-101], based on advertiser refining list of search terms the advertiser correlation is changed and certain terms are no longer recommended to the advertiser, see also [0107-108], [0132], weighting and ratings of search terms change as the advertiser accepts and rejects terms).

9. As per claim 24, Paine discloses the computer-implemented method of claim 23 (as rejected above). Paine further discloses further comprising:



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f) determining, with the computer system, at least one of  
(1) a further candidate concept having an associated value and  
(2) a further candidate concept indicator having an associated  
value using advertiser feedback ([0112], advertiser selects  
terms from provided list, reruns collaborative filtering  
operation in multiple iterations, see also [0108], advertiser  
runs multiple iterations in accepting and rejecting terms, see  
also [0107-108], weighting and ratings of search terms change  
as the advertiser accepts and rejects terms); and

presenting, with the computer system, the determined at  
least one further candidate concept and further candidate  
concept indicator to the advertiser ([0112], recommended  
search terms presented to advertiser).

10. As per claim 25, Paine discloses the computer-implemented  
method of claim 23 (as rejected above). Paine further  
discloses wherein

the candidate concept indicator is a previously processed  
search query to which the ad would have been relevant ([0097],  
search terms have been used in searches in past month).

11. As per claim 26, Paine discloses a computer-implemented  
method comprising:

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a) accepting, with a computer system including at least one computer on a network, targeting criteria information associated with an ad ([0086], advertiser enters bidded search terms, see also [0093], spidering specified advertiser web site, see also [0107], [0111], advertiser specifies initial list of search terms);

b) determining, with the computer system, at least one targeting concept having an associated value using at least the accepted targeting criteria information ([0086], string matching to find additional search terms, see also [0093-95], filtering search terms from terms used by other advertisers, collaborative filtering used to identify possible search terms to recommend to advertiser, see also [0097-101], terms are scored using a quality metric to compile list of recommendations, quality metric serves to compile related terms and eliminate poor search terms, see also [0118], ranked list of recommendations based on ratings);

c) determining, with the computer system, a representation of the determined at least one targeting concept ([0086], advertiser selects search terms from provided list, see also [0097-101], advertiser allowed to iteratively accept and reject words until satisfied with list of recommendations)

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(The Examiner understands the representation to be the term selected by the advertiser);

d) associating, with the computer system, the determined representation with the ad ([0100-101], search terms associated with advertiser);

e) adjusting, with the computer system, the value associated with the at least one targeting, concept using at least information from other ads using, the same or similar targeting criteria information ([0097-101], advertiser refines search terms, similarity derived from advertiser comparison, based on similarity change recommendations will change); and

f) storing, with the computer system, the adjusted value in association with the at least one targeting concept and in association with the ad ([0086], advertiser selects search terms from provided list, see also [0100-101], based on advertiser refining list of search terms the advertiser correlation is changed and certain terms are no longer recommended to the advertiser, see also [0107-108], [0132], weighting and ratings of search terms change as the advertiser accepts and rejects terms, see also [0112], once advertiser is satisfied with accepted terms the terms are stored).

12. As per claim 60, Paine discloses an apparatus comprising:

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at least one processor ([0039], processor of account management server);

at least one communications interface ([0112], user interface for advertiser); and

at least one storage device, the storage device storing program instructions which, when executed by the at least one processor ([0109], Code operable on processor device in conjunction with database), perform a method including:

a) accepting ad information ([0086], advertiser enters bidded search terms, see also [0093], spidering specified advertiser web site, see also [0107], [0111], advertiser specifies initial list of search terms);

b) determining at least one of (1) a candidate concept having an associated value and (2) a candidate concept indicator having an associated value using the accepted ad information ([0086], string matching to find additional search terms, see also [0093-95], filtering search terms from terms used by other advertisers, collaborative filtering used to identify possible search terms to recommend to advertiser, see also [0097-101], terms are scored using a quality metric to compile list of recommendations, quality metric serves to compile related terms and eliminate poor search terms, see also [0118], ranked list of recommendations based on ratings);

c) presenting the determined at least one candidate concept and candidate concept indicator to an advertiser ([0086], generated list of additional search terms to advertiser, see also [0093], filtered search terms stored in search listing database, see also [0097-101], advertiser allowed to iteratively accept and reject words until satisfied with list of recommendations, see also [0112], advertiser presented with list);

d) determining a representation of the concept targeting information for the ad using, at least, advertiser feedback to the presented at least one candidate concept and candidate concept indicator ([0086], advertiser selects search terms from provided list, see also [0097-101], advertiser allowed to iteratively accept and reject words until satisfied with list of recommendations) (The Examiner understands the representation to be the term selected by the advertiser); and

e) adjusting the value associated with the at least one of (1) a candidate concept and (2) a candidate concept indicator using the accepted advertiser feedback ([0086], advertiser selects search terms from provided list, see also [0100-101], based on advertiser refining list of search terms the advertiser correlation is changed and certain terms are no longer recommended to the advertiser, see also [0107-108],

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[0132], weighting and ratings of search terms change as the advertiser accepts and rejects terms).

13. As per claim 61, Paine discloses the apparatus of claim 60 (as rejected above). Paine further discloses wherein the stored program instructions which, when executed by the at least one processor, perform a method further including:

f) determining at least one of (1) a further candidate concept having an associated value and (2) a further candidate concept indicator having an associated value using advertiser feedback ([0112], advertiser selects terms from provided list, reruns collaborative filtering operation in multiple iterations, see also [0108], advertiser runs multiple iterations in accepting and rejecting terms, see also [0107-108], weighting and ratings of search terms change as the advertiser accepts and rejects terms); and

presenting the determined at least one further candidate concept and further candidate concept indicator to the advertiser ([0112], recommended search terms presented to advertiser).

14. As per claim 62, Paine discloses the apparatus of claim 60 (as rejected above). Paine further discloses wherein

the candidate concept indicator is a previously processed search query to which the ad would have been relevant ([0097], search terms have been used in searches in past month).

15. As per claim 63, Paine discloses an apparatus comprising:

at least one processor ([0039], processor of account management server);

at least one communications interface ([0112], user interface for advertiser); and

at least one storage device, the storage device storing program instructions which, when executed by the at least one processor ([0109], Code operable on processor device in conjunction with database), perform a method including:

a) accepting targeting criteria information associated with an ad ([0086], advertiser enters bidded search terms, see also [0093], spidering specified advertiser web site, see also [0107], [0111], advertiser specifies initial list of search terms);

b) determining at least one targeting concept having an associated value using at least the accepted targeting criteria information ([0086], string matching to find additional search terms, see also [0093-95], filtering search terms from terms used by other advertisers, collaborative

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filtering used to identify possible search terms to recommend to advertiser, see also [0097-101], terms are scored using a quality metric to compile list of recommendations, quality metric serves to compile related terms and eliminate poor search terms, see also [0118], ranked list of recommendations based on ratings);

c) determining a representation of the determined at least one targeting concept ([0086], advertiser selects search terms from provided list, see also [0097-101], advertiser allowed to iteratively accept and reject words until satisfied with list of recommendations) (The Examiner understands the representation to be the term selected by the advertiser);

d) associating the determined representation with the ad ([0100-101], search terms associated with advertiser);

e) adjusting the value associated with the at least one targeting concept using at least information from other ads using the same or similar targeting criteria information ([0097-101], advertiser refines search terms, similarity derived from advertiser comparison, based on similarity change recommendations will change); and

f) storing the adjusted value in association with the at least one targeting concept and in association with the ad ([0086], advertiser selects search terms from provided list,



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see also [0100-101], based on advertiser refining list of search terms the advertiser correlation is changed and certain terms are no longer recommended to the advertiser, see also [0107-108], [0132], weighting and ratings of search terms change as the advertiser accepts and rejects terms, see also [0112], once advertiser is satisfied with accepted terms the terms are stored).

16. As per claim 75, Paine discloses the computer-implemented method of claim 23 (as rejected above). Paine further discloses further comprising:

f) using the determined representation of the concept targeting information for the ad to determine a similarity of the ad to a request for ads ([0085-86], generated list of search terms relevant to advertiser content, advertiser selects terms, see also [0093], storing in a search listing database search listings for the advertiser, the search listings formed with the filtered search terms, see also [0073], search results returned in accordance with search query input).

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17. As per claim 76, Paine discloses the computer-implemented method of claim 23 (as rejected above). Paine further discloses wherein

the representation of the concept targeting information includes a plurality of concepts, each having a value ([0085-86], generated list of search terms relevant to advertiser content, advertiser selects terms, see also [0089], advertiser's selected search terms have corresponding ranks).

18. As per claim 77, Paine discloses the computer-implemented method of claim 23 (as rejected above). Paine further discloses further comprising:

f) using the adjusted value associated with the at least one of (1) a candidate concept and (2) a candidate concept indicator to control the serving of the ad ([0086], advertiser selects search terms from provided list, see also [0100-101], based on advertiser refining list of search terms the advertiser correlation is changed and certain terms are no longer recommended to the advertiser, see also [0107-108], [0132], weighting and ratings of search terms change as the advertiser accepts and rejects terms, see also [0112], once advertiser is satisfied with search terms accepted the terms are stored) (The Examiner understands that the terms finally

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accepted by the advertiser control the serving of the ad (i.e. the accepted terms are used to return search results based on an appropriate search query).

19. As per claim 78, Paine discloses the computer-implemented method of claim 26 (as rejected above). Paine further discloses further comprising:

g) using the adjusted value stored in association with the at least one targeting concept and in association with the ad to control the serving of the ad ([0086], advertiser selects search terms from provided list, see also [0100-101], based on advertiser refining list of search terms the advertiser correlation is changed and certain terms are no longer recommended to the advertiser, see also [0107-108], [0132], weighting and ratings of search terms change as the advertiser accepts and rejects terms, see also [0112], once advertiser is satisfied with search terms accepted the terms are stored) (The Examiner understands that the terms finally accepted by the advertiser control the serving of the ad (i.e. the accepted terms are used to return search results based on an appropriate search query)).

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20. As per claim 84, Paine discloses the computer-implemented method of claim 23 (as rejected above). Paine further discloses wherein

the at least one of (1) a candidate concept and (2) a candidate concept indicator is a representation of meaning that is determined by analyzing a sequence of at least one of (A) word searches and (B) user actions as the result of word searches ([0097], [0113], records every term or phrase that has been used as a search term in the past month, terms scored via a quality metric to compile recommendations list) and

wherein the at least one of (1) a candidate concept and (2) a candidate concept indicator includes context information ([0097], [0113], records every term or phrase that has been used as a search term in the past month, terms scored via a quality metric to compile recommendations list, (e.g. phrase "tropical fish store", program finds six terms "tropical", "fish", "store", "tropical fish", "fish store" and "tropical fish store")) (The Examiner understands these terms include context information).

21. As per claim 85, Paine discloses the computer-implemented method of claim 26 (as rejected above). Paine further discloses wherein

the targeting concept is a representation of meaning that is determined by analyzing a sequence of at least one of (A) word searches and (B) user actions as the result of word searches ([0097], [0113], records every term or phrase that has been used as a search term in the past month, terms scored via a quality metric to compile recommendations list) and

wherein the targeting concept include context information ([0097], [0113], records every term or phrase that has been used as a search term in the past month, terms scored via a quality metric to compile recommendations list, (e.g. phrase "tropical fish store", program finds six terms "tropical", "fish", "store", "tropical fish", "fish store" and "tropical fish store")) (The Examiner understands these terms include context information).

**22. Claims 28-37, 65-74, 79-80 and 86-87 are rejected under 35 U.S.C. 102(e) as being anticipated by Meisel et al. (US 7,035,812 B2) (hereinafter Meisel).**

23. As per claim 28, Meisel discloses a computer-implemented method for determining concepts of a request, the method comprising:

a) accepting with a computer system including at least one computer on a networks, request information (column 9, lines 55-56, search terms entered by user);

b) determining, with the computer system, at least one concept having an associated value using the request information (column 9, lines 55-56, generates list of hyperlinks relevant and corresponding to search terms entered, see also column 15, line 39 - column 17, line 19, rank value of advertiser search listing determines placement location in search result list when a search is executed on a corresponding search term);

c) generating, with the computer system, a representation of the determined at least one concept, wherein the value associated with the determined at least one concept in the generated representation is adjusted using performance information of advertisements that have been served-pursuant to the concept (column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing); and

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d) storing, with the computer system, the adjusted value in association with the at least one concept (column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing, see also column 14, lines 13-25, advertisers able to track performance of targeted market segments via subaccounts) (The Examiner understands that based on the performance of search listings served in response to search queries being tracked and the advertiser's ability to monitor this performance via subaccounts, the adjusted value of the search listing (i.e. rank based on click-through data) is stored).

24. As per claim 29, Meisel discloses the computer-implemented method of claim 28 (as rejected above). Meisel further discloses wherein

the at least one concept includes a "'no concept" concept (column 9, lines 48-52, keywords entered by user as search query).

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25. As per claim 30, Meisel discloses the computer-implemented method of claim 28 (as rejected above). Meisel further discloses wherein

the performance information is advertisement selection information (column 10, lines 51-66, click-through action is recorded via advertiser account).

26. As per claim 31, Meisel discloses the computer-implemented method of claim 28 (as rejected above). Meisel further discloses wherein

the performance information is conversion information (column 11, lines 45-55, user performs action on advertiser website after click-through).

27. As per claim 32, Meisel discloses a computer-implemented method for adjusting a value associated with a concept relative to a request, the method comprising:

a) tracking, with a computer system including at least one computer on a network, performance information of advertisements served pursuant to the concept (column 10, lines 41-67 - column 11, lines 1-67, performance actions recorded, see also column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over



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a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing);

b) adjusting, with the computer system, the value associated with the concept relative to the request using the tracked performance information (column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing); and

c) storing, with the computer system, the adjusted value in association with the concept relative to the request (column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing, see also column 14, lines 13-25, advertisers able to track performance of

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targeted market segments via subaccounts) (The Examiner understands that based on the performance of search listings served in response to search queries being tracked and the advertiser's ability to monitor this performance via subaccounts, the adjusted value of the search listing (i.e. rank based on click-through data) is stored).

28. As per claim 33, Meisel discloses the computer-implemented method of claim 32 (as rejected above). Meisel further discloses wherein

adjusting the value associated with the concept relative to the request includes increasing the value associated with the concept relative to the request if the tracked performance information is above a threshold performance level (column 16, lines 9-64, comparative attractiveness factor distinguishes between a listing of less than average attractiveness for which the factor is less than one, a listing of typical or average attractiveness for which the factor is one and a listing of unusual attractiveness for the factor is greater than one, market value of listing adjusted according to this comparative attractiveness factor, see also column 17, lines 56-67 - column 18, lines 1-13, intrinsic CTR value and market bid value calculated, listing that is more attractive than

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average (i.e. comparative attractiveness factor) results in higher ranking). (The Examiner understands this comparative attractiveness factor of one to be the threshold value and the ranking of the listing is adjusted according to whether its factor is higher or lower than one.)

29. As per claim 34, Meisel discloses the computer-implemented method of claim 32 (as rejected above). Meisel further discloses wherein

adjusting the value associated with the concept relative to the request includes decreasing the value associated with the concept relative to the request if the tracked performance information is below a threshold performance level (column 16, lines 9-64, comparative attractiveness factor distinguishes between a listing of less than average attractiveness for which the factor is less than one, a listing of typical or average attractiveness for which the factor is one and a listing of unusual attractiveness for the factor is greater than one, market value of listing adjusted according to this comparative attractiveness factor, see also column 17, lines 56-67 - column 18, lines 1-13, intrinsic CTR value and market bid value calculated, listing that is less attractive than average results in lower ranking). (The Examiner understands

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this comparative attractiveness factor of one to be the threshold value and the ranking of the listing is adjusted according to whether its factor is higher or lower than one.)

30. As per claim 35, Meisel discloses the computer-implemented method of claim 32 (as rejected above). Meisel further discloses wherein

adjusting the value associated with the concept relative to the request uses the tracked performance of the concept relative to tracked performance of at least one other concept (column 17, lines 4-19, intrinsic CTR value calculated for each search term, groups or categories of search terms, or across all search terms).

31. As per claim 36, Meisel discloses the computer-implemented method of claim 32 (as rejected above). Meisel further discloses wherein

the performance information is advertisement selection information (column 10, lines 51-66, click-through action is recorded via advertiser account).

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32. As per claim 37, Meisel discloses the computer-implemented method of claim 32 (as rejected above). Meisel further discloses wherein

the performance information is conversion information (column 11, lines 45-55, user performs action on advertiser website after click-through).

33. As per claim 65, Meisel discloses an apparatus for determining concepts of a request, the apparatus comprising:

at least one processor (Fig. 1, "34");

at least one communications interface (Fig. 1, "20"); and

at least one storage device, the storage device storing program instructions which, when executed by the at least one processor (Fig. 1, Account Management Server with storage("32") and processing system("34")), perform a method including:

a) accepting request information (column 9, lines 55-56, search terms entered by user);

b) determining at least one concept having an associated value using the request information (column 9, lines 55-56, generates list of hyperlinks relevant and corresponding to search terms entered, see also column 15, line 39 - column 17, line 19, rank value of advertiser search listing determines

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placement location in search result list when a search is executed on a corresponding search term);

c) generating a representation of the determined at least one concept, wherein the value associated with the determined at least one concept in the generated representation is adjusted using performance information of advertisements that have been served pursuant to the concept (column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing); and

d) storing the adjusted value in association with the at least one concept (column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing, see also column 14, lines 13-25, advertisers able to track performance of targeted market segments via subaccounts) (The Examiner understands that based on the performance of

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search listings served in response to search queries being tracked and the advertiser's ability to monitor this performance via subaccounts, the adjusted value of the search listing (i.e. rank based on click-through data) is stored).

34. As per claim 66, Meisel discloses the apparatus of claim 65 (as rejected above). Meisel further discloses wherein the at least one concept includes a "no concept" concept (column 9, lines 48-52, keywords entered by user as search query).

35. As per claim 67, Meisel discloses the apparatus of claim 65 (as rejected above). Meisel further discloses wherein the performance information is advertisement selection information (column 10, lines 51-66, click-through action is recorded via advertiser account).

36. As per claim 68, Meisel discloses the apparatus of claim 65 (as rejected above). Meisel further discloses wherein the performance information is conversion information (column 11, lines 45-55, user performs action on advertiser website after click-through).

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37. As per claim 69, Meisel discloses an apparatus for adjusting a value associated with a concept relative to a request, the apparatus comprising:

at least one processor (Fig. 1, "34");

at least one communications interface (Fig. 1, "20"); and

at least one storage device, the storage device storing program instructions which, when executed by the at least one processor (Fig. 1, Account Management Server with storage("32") and processing system("34")), perform a method including:

a) tracking performance information of advertisements served pursuant to the concept (column 10, lines 41-67 - column 11, lines 1-67, performance actions recorded, see also column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing);

b) adjusting the value associated with the concept relative to the request using the tracked performance information (column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified



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period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing); and

c) storing, with the computer system, the adjusted value in association with the concept relative to the request (column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing, see also column 14, lines 13-25, advertisers able to track performance of targeted market segments via subaccounts) (The Examiner understands that based on the performance of search listings served in response to search queries being tracked and the advertiser's ability to monitor this performance via subaccounts, the adjusted value of the search listing (i.e. rank based on click-through data) is stored).

38. As per claim 70, Meisel discloses the apparatus of claim 69 (as rejected above). Meisel further discloses wherein

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adjusting the value associated with the concept relative to the request includes increasing the value associated with the concept relative to the request if the tracked performance information is above a threshold performance level (column 16, lines 9-64, comparative attractiveness factor distinguishes between a listing of less than average attractiveness for which the factor is less than one, a listing of typical or average attractiveness for which the factor is one and a listing of unusual attractiveness for the factor is greater than one, market value of listing adjusted according to this comparative attractiveness factor, see also column 17, lines 56-67 - column 18, lines 1-13, intrinsic CTR value and market bid value calculated, listing that is more attractive than average (i.e. comparative attractiveness factor) results in higher ranking). (The Examiner understands this comparative attractiveness factor of one to be the threshold value and the ranking of the listing is adjusted according to whether its factor is higher or lower than one.).

39. As per claim 71, Meisel discloses the apparatus of claim 69 (as rejected above). Meisel further discloses wherein

adjusting the value associated with the concept relative to the request includes decreasing the value associated with the

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concept relative to the request if the tracked performance information is below a threshold performance level (column 16, lines 9-64, comparative attractiveness factor distinguishes between a listing of less than average attractiveness for which the factor is less than one, a listing of typical or average attractiveness for which the factor is one and a listing of unusual attractiveness for the factor is greater than one, market value of listing adjusted according to this comparative attractiveness factor, see also column 17, lines 56-67 - column 18, lines 1-13, intrinsic CTR value and market bid value calculated, listing that is less attractive than average results in lower ranking). (The Examiner understands this comparative attractiveness factor of one to be the threshold value and the ranking of the listing is adjusted according to whether its factor is higher or lower than one.)

40. As per claim 72, Meisel discloses the apparatus of claim 69 (as rejected above). Meisel further discloses wherein

adjusting the value associated with the concept relative to the request uses the tracked performance of the concept relative to tracked performance of at least one other concept (column 17, lines 4-19, intrinsic CTR value calculated for

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each search term, groups or categories of search terms, or across all search terms).

41. As per claim 73, Meisel discloses the apparatus of claim 69 (as rejected above). Meisel further discloses wherein the performance information is advertisement selection information (column 10, lines 51-66, click-through action is recorded via advertiser account).

42. As per claim 74, Meisel discloses the method of claim 69 (as rejected above). Meisel further discloses wherein the performance information is conversion information (column 11, lines 45-55, user performs action on advertiser website after click-through).

43. As per claim 79, Meisel discloses the computer-implemented method of claim 28 (as rejected above). Meisel further discloses further comprising:

e) using the adjusted value stored in association with the at least one concept to control the serving of at least one ad (column 15, line 39 - column 17, line 19, rank value of advertiser search listing determines placement location in search result list when a search is executed on a

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corresponding search term, see also column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing, see also column 14, lines 13-25, advertisers able to track performance of targeted market segments via subaccounts) (The Examiner understands that based on the performance of search listings served in response to search queries being tracked and the advertiser's ability to monitor this performance via subaccounts, the adjusted value of the search listing (i.e. rank based on click-through data) is stored. Furthermore, the Examiner understands that the performance impacts the ranking of a listing. As such, when search queries are performed, the search results list is returned according to said rankings. As such, the serving of the listings is control by the ranking value (i.e. adjusted value based on performance).

44. As per claim 80, Meisel discloses the computer-implemented method of claim 32 (as rejected above). Meisel further discloses further comprising:

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d) using the adjusted value stored in association with the concept relative to the request to control the serving of at least one ad (column 15, line 39 - column 17, line 19, rank value of advertiser search listing determines placement location in search result list when a search is executed on a corresponding search term, see also column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click through rate is considered to be a function of the rank of the search listing, see also column 14, lines 13-25, advertisers able to track performance of targeted market segments via subaccounts) (The Examiner understands that based on the performance of search listings served in response to search queries being tracked and the advertiser's ability to monitor this performance via subaccounts, the adjusted value of the search listing (i.e. rank based on click-through data) is stored. Furthermore, the Examiner understands that the performance impacts the ranking of a listing. As such, when search queries are performed, the search results list is returned according to said rankings. As such, the serving of

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the listings is control by the ranking value (i.e. adjusted value based on performance).

45. As per claim 86, Meisel discloses the computer-implemented method of claim 28 (as rejected above). Meisel further discloses wherein

the concept is a representation of meaning that is determined by analyzing a sequence of at least one of (A) word searches and (B) user actions as the result of word searches (column 9, lines 43-60, keyword queries enter via search engine, search engine generates list of hyperlinks to documents that contain information relevant to corresponding search terms entered) and

wherein the concept include context information (column 9, lines 43-60, keyword queries enter via search engine, search engine generates list of hyperlinks to documents that contain information relevant to corresponding search terms entered) (The Examiner understands these keywords entered via query include context information, as these keywords return hyperlink textual links relevant to keywords when searched).

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46. As per claim 87, Meisel discloses the computer-implemented method of claim 32 (as rejected above). Meisel further discloses wherein

the concept is a representation of meaning that is determined by analyzing a sequence of at least one of (A) word searches and (B) user actions as the result of word searches (column 9, lines 43-60, keyword queries enter via search engine, search engine generates list of hyperlinks to documents that contain information relevant to corresponding search terms entered) and

wherein the concept include context information (column 9, lines 43-60, keyword queries enter via search engine, search engine generates list of hyperlinks to documents that contain information relevant to corresponding search terms entered) (The Examiner understands these keywords entered via query include context information, as these keywords return hyperlink textual links relevant to keywords when searched).

### ***Response to Arguments***

47. Applicant's arguments filed 05/28/2009 have been fully considered but they are not persuasive.



48. In the remarks, the Applicant argues with respect to claims 23 and 60, as amended, that Paine fails to teach "**determining a candidate concept having an associated value (and/or candidate concept indicator), presenting the determined candidate concept (and/or candidate concept indicator) to an advertiser, determining a representation of the concept targeting information for the ad using the advertiser feedback to the presented candidate concept (and/or candidate concept indicator), and adjusting the value associated with the candidate concept (and/or candidate concept indicator) using the accepted advertiser feedback**". In response to these arguments, the Examiner respectfully disagrees.

The Examiner notes that as per the rejection above, Paine discloses ([0086], string matching to find additional search terms, see also [0093-95], filtering search terms from terms used by other advertisers, collaborative filtering used to identify possible search terms to recommend to advertiser, see also [0097-101], terms are scored using a quality metric to compile list of recommendations, quality metric serves to compile related terms and eliminate poor search terms, see also [0118], ranked list of recommendations based on ratings). The Examiner disagrees with the Applicant's assertion that

*"the fact that a concept may be associated with one ore more keywords in embodiments consistent with the claimed invention does not mean that a concept in the present application is the same as the keywords described in the Paine publication."*

*(page 20 of Remarks)*

The Examiner notes that as per the Applicant's own admission, "each of a number of concepts may be associated with one or more keywords" (page 17, paragraph 3, Applicant's arguments filed on 11/03/2008). The Examiner would like to emphasize the underlined portion in the excerpt above. This demonstrates that one keyword would satisfy the limitation of a concept. As such, the Examiner contends that based on the provided citations, Paine does indeed disclose "concepts" in the form of keywords, keywords that have both relevance and contextual significance to the advertiser and their content.

Moreover, based on citations provided in the rejection above, Paine provides the advertiser with recommended search terms deemed relevant to the advertiser based on a quality metric. As the advertiser proceeds in iteratively accepting and rejecting terms, this quality metric changes based on the advertiser feedback (i.e. accept/reject). Once satisfied with the search term list, the terms are accepted and saved and will be used to provide search results in response to an

appropriate query. As such, the Examiner contends that all of the limitations as currently written have been fully satisfied and addressed in the rejection above.

Therefore, the Examiner hereby maintains the rejection of claims 23 and 60 based on the disclosure of Paine. The Examiner also maintains the rejection of claims 26 and 63 for similar reasons, as well as dependent claims 24-25, 75-76 and 61-62, dependent on claims 23 and 60 respectively.

49. In the remarks, the Applicant argues with respect to claims 28 and 65, as amended, that Meisel fails to teach "**determining at least one concept having an associated value using accepted request information, and generating a representation of the determined at least one concept, wherein associated with the determined concept in the generated representation is adjusted using performance information of advertisements that have been served pursuant to the concept**". In response to these arguments, the Examiner respectfully disagrees.

The Applicant makes a similar argument to that made against claims 23 and 60 that "the fact that a concept may be associated with one ore more keywords in embodiments consistent with the claimed invention does not mean that a

*concept in the present application is the same as the keywords described in the Meisel publication."*

The Examiner notes that as per the Applicant's own admission, "each of a number of concepts may be associated with one or more keywords" (page 17, paragraph 3, Applicant's arguments filed on 11/03/2008). The Examiner would like to emphasize the underlined portion in the excerpt above. This demonstrates that one keyword would satisfy the limitation of a concept. As such, the Examiner contends that based on the provided citations, Meisel does indeed disclose "concepts" in the form of keywords, keywords that have both relevance and contextual significance to the advertiser and their content.

The Examiner notes that as per the rejection above, Meisel discloses (column 9, lines 55-56, generates list of hyperlinks relevant and corresponding to search terms entered, see also column 15, line 39 - column 17, line 19, rank value of advertiser search listing determines placement location in search result list when a search is executed on a corresponding search term) and (column 16, line 9 - column 18, line 13, performance information in the form of click-through rate over a specified period of time is used to determine location of listing in search result list, see also column 28, lines 19-59, clicks on a search listing are tracked, click

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through rate is considered to be a function of the rank of the search listing).

The Examiner understands that the returned search result listings relevant to the keywords entered via search engine query with their corresponding rank value satisfy the limitation of "**determining at least one concept having an associated value using accepted request information**".

Furthermore, by tracking the performance of the listing, which directly impacts the rank of the search listing, the rank value (i.e. associated value) is in fact adjusted. As such, the search results list returned to a user based on keyword search queries compiled according to rank satisfies the limitation of "**generating a representation of the determined at least one concept, wherein associated with the determined concept in the generated representation is adjusted using performance information of advertisements that have been served pursuant to the concept**".

Based on these cited elements of the disclosure, the Examiner has shown that Meisel does indeed teach the claimed limitations and as such, the Examiner hereby maintains the rejection of claims 28 and 65. The Examiner maintains the rejection of independent claims 32 and 69 for similar reasons. Furthermore, as per claims 29-31, 35-37, 66-68, and 70-74

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which depended from claims 28, 32, 65 and 69, respectively, the Examiner maintains the rejections of claims 29-31, 35-37, 66-68, and 70-74 as well.

50. The Examiner notes the Applicant's arguments with respect to claims 33-34 (as argued in the 103 section of the Remarks) are considered moot. In a previous office action, the Examiner used a more narrow interpretation by rejecting claims 33-34 based on an obviousness rationale. However, based on the amendments to independent claim 32 and after further review of the specification, the Examiner has deemed it appropriate to interpret the claim language as currently written based on the broadest reasonable interpretation. As such, these claims have been fully addressed in the rejection above as being disclosed by Meisel under 35 U.S.C. 102(e).

### ***Conclusion***

51. Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM A. BRANDENBURG whose telephone number is (571)270-5488. The examiner can normally be reached on Monday-Thursday 6:30 am - 5:00 pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/W. A. B./  
Examiner, Art Unit 3622

/John Van Bramer/  
John Van Bramer  
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